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LETTER DATED 27 JANUARY 1997 FROM THE CHARGE D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith a letter from the Federal Minister for Foreign Affairs of the Federal Republic of Yugoslavia, Mr. Milan Milutinović, addressed to you.

I should be grateful if you would have the text of the present letter and its annex circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.

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Annex

Letter dated 25 January 1997 from the Federal Minister for Foreign Affairs of the Federal Republic of Yugoslavia addressed to the President of the Security Council

I have been informed of the contents of the letter addressed to you by the Secretary-General of the United Nations, Mr. Kofi Annan, on 21 January 1997 (S/1997/62) concerning the further process of implementation of the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium (the region).

Although the Federal Republic of Yugoslavia is not a signatory party to the Basic Agreement, it has made a significant contribution to the achievement of a peaceful solution and its successful implementation thus far. In this respect, we have had fruitful cooperation with the Transitional Administrator, Mr. Jacques Paul Klein, members of the Security Council Contact Group, Governments of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) contributing countries and all other international factors. The Federal Republic of Yugoslavia is vitally interested in ensuring lasting peace and stability in this region on the basis of the consistent implementation of the Basic Agreement. Finally, our lasting commitment to normal, good-neighbourly relations with the Republic of Croatia, which have broader significance for the stability and future of this part of Europe, is well known.

In view of the above, we consider that it is of exceptional importance that each new step towards the realization of the goals of the Basic Agreement and the relevant Security Council resolutions be carefully and comprehensively assessed. In this context, it is of particular importance to take into account equally the arguments of the signatory parties to the Agreement, the universal principles on the protection of national minorities and the realities concerning the position of the Serbs in Croatia.

We consider that the letter dated 13 January 1997 from the Government of Croatia (S/1997/27) contains a number of useful initiatives and positive elements. At the same time, it is evident that the letter contains a number of ambiguities and fails to address certain issues, while some positions, in our view, depart from the text and the goals of the Basic Agreement. In this context, we consider that the requests of the Serbs presented in their letter addressed to the Security Council through the Transitional Administrator, Mr. Jacques Paul Klein, on 16 January 1997, are well founded and deserve to be carefully considered. Accordingly, we proceed from the fact that, the Security Council, by its resolution 1023 (1995), reinforced the Basic Agreement concluded between the representatives of the Government of Croatia and the Serbs from the region.

We consider that it is of crucial importance to maintain the integrity of the region, first of all because it corresponds to the integrity of the Serb population in that area, which is very significant for their feeling of security, and prospects for the preservation of the lasting multi-ethnic

composition and equality of all residents, irrespective of their ethnic origin or religion. The aim from the letter to divide the region administratively into two districts and to divide the districts into 27 municipalities would not only constitute an administrative fragmentation of the compactness of the Serbs as a national minority, but would lead to discrimination against them and increase their feeling of endangerment and insecurity. The administrative division, which by breaking up the territory wholly populated by Serbs and connecting its parts to the places and towns outside of the region with a predominantly Croatian population, would result in the Serbs becoming the minority in the greatest number of municipalities, with an insignificant number of exceptions, without adequate influence on the decision-making in local self-government. This would, despite the positions and promises concerning cultural autonomy, no doubt practically prevent the preservation of their national and cultural identity. This is also contrary to the positions of the Organization for Security and Cooperation in Europe (OSCE) on the prevention of administrative divisions aimed at changing ethnic composition to the detriment of national minorities (see the CSCE Helsinki Document 1992, chap. VI, para. 27).

We are deeply convinced that the preservation of the integrity of the region is an essential precondition for the realization of the rights of the Serbian community in the spirit of the Basic Agreement. Paragraph 12 of the Basic Agreement provides for the right of the Serbian community to appoint a Joint Council of Municipalities, which represents an important precondition for guaranteeing the Serbs adequate influence on the conditions and perspectives of their life and development. The question is - what kind of Council of Serbian Municipalities would it be and would it be able truly to influence the realization of the rights of the Serbian community - since the proposed administrative division would make it practically impossible to create the municipalities with predominantly Serbian population.

The respect for this integrity of the region as a single administrative unit is a request of the Serbs known to the Transitional Administration and to other international factors ever since the signing of the Basic Agreement and the first talks on administrative organization. This request is in accordance with international standards and it in no way brings into question any principle of the State organization of Croatia. Finally, the fact of the matter is that the Basic Agreement refers to the region as a whole. This stems from the goals to protect the equality of the Serbs as a national minority in a religiously and historically specific territory. It is not a coincidence that the Basic Agreement, from its title to its last provision, refers to the region as a whole, defining its specific problems, relations and goals.

We feel obliged to draw the attention of the Security Council to the fact that the realization of the administrative division of the region in a way that would change its demographic structure to the detriment of the Serbs, would generate insecurity and cause a massive exodus of the Serbs, as well as the "ethnic cleansing" of the region. We do not believe that this is in anyone's interest, least of all that of the Federal Republic of Yugoslavia, which has for years shouldered the overwhelming burden of providing assistance and shelter to over 700,000 refugees. Therefore, we expect that this very important request of the Serbs will be accorded necessary attention, both in view of the realities

and the international norms, so that unforeseeable harmful consequences can be avoided.

As far as the elections are concerned, the Basic Agreement (para. 12) provides that they be held "not later than 30 days before the end of the transitional period". The mandate of UNTAES has been extended by the Security Council in its resolution 1079 (1996) until 15 July 1997, as well as a further United Nations presence, possibly a restructured UNTAES, "for the six-month period beginning from 16 July 1997".

The equality and security of all residents of the region represent foundations of the Basic Agreement. Paragraph 4 of the Agreement provides that "all persons who have left the region or who have come to the region with previous permanent residence in Croatia shall enjoy the same rights as all other residents of the region". Paragraph 7 of the Agreement provides that "all persons who have left the region or who have come to the region with previous permanent residence in Croatia have the right to live in the region". Consequently, the residents of the region should not be discriminated against with regard to any right, including the right to participate in the elections, regardless of when they settled or the length of their stay in the region. The only criterion provided for by the Basic Agreement is that the resident of the region had previous permanent residence in some part of Croatia. Therefore, we consider that there are no grounds for making a resident's right to vote conditional on whether he/she lived in the region before the very beginning of the UNTAES mandate, that is, 15 January 1996.

The motives and conditions under which the Serbs came to the region of Eastern Slavonia, Baranja and Western Sirmium from other parts of Croatia, primarily from Western Slavonia and Krajina, are also well known, as are the obstacles to their free return to their places of origin (see the Security Council presidential statement of 20 December 1996 (S/PRST/1996/48) and the reports of the Special Rapporteur of the Commission on Human Rights, Mrs. Elisabeth Rehn). Therefore, we expect the Security Council to intercede so that the aforementioned unfounded conditions contained in the letter of the Croatian Government will be deleted.

There is no doubt that the framework provision of the Basic Agreement (para. 12) and paragraph 7 (b) of Security Council resolution 1079 (1996), on the one hand, and the crucial assessment of whether real conditions for free and fair elections have been ensured in the period before the ballot, on the other, are important for the timing of the elections. The Basic Agreement, as well as the past decisions of the Security Council provide no grounds for the elections in the region to be connected with the elections in other parts of Croatia. The date of the latter elections should not prejudge the conditions and timing of the elections in the region, since it is obvious that the conditions in the region differ from those in other parts of Croatia. Finally, the elections in the region will, in any case, be organized by UNTAES, which is explicitly provided for in paragraph 12 of the Basic Agreement, and not by the Croatian Government.

In this respect, I wish to draw your attention to the fact that this position has been set forth in paragraph 11 (e) of Security Council resolution

1037 (1996) and elaborated in detail in the report of the Secretary-General of 12 December 1995 (S/1995/1028, para. 16 (g)), which is an integral part of the said resolution. By these decisions, the Security Council has clearly defined the obligations of UNTAES with respect to the organization of the elections, and in particular the definition of the borders of the municipalities, districts and regions. Therefore, there are no grounds in the decisions of the Security Council for UNTAES to delegate its rights and duties; and it is obliged to realize them directly. Such a conclusion is logical, not only in view of the above decisions of the Security Council, but in view of the fact that we have just embarked upon the second part of the transitional period. We believe that the Security Council had justified reasons for taking such a decision and that the developments in the meantime have not brought into question their validity.

The role of OSCE in the monitoring and preparation of the elections in the region is an important element of, and precondition for, the consistent implementation of the Basic Agreement. This proceeds not only from the provisions of the Basic Agreement (para. 12), but from the very nature of the problems of the region, which concern security, cooperation and the realization of human and civil rights. Therefore, we expect the Security Council to point to the need for the timely inclusion of OSCE in the monitoring of the conditions and all activities connected with free and fair elections in the region.

Allow me to emphasize also that the overall atmosphere among the population of the region is still precarious, owing to the aggressive media campaign of the Croatian electronic media and press and frequent telephone harassment of its residents, as well as occasional unauthorized intrusion of the notorious Croatian extremists in the settlements and homes of certain residents of the region. The slow and inconsistent approach towards the implementation of the Amnesty Law causes particular concern. Namely, there are a few hundred Serbs still in Croatian prisons. Most of them were originally imprisoned on charges "that they participated in armed rebellion", and as such should have been released under the new Amnesty Law. This expectation of the Serbs, as well as of the international factors (the positions of the Council of Europe) has not been fulfilled, because after the entry of the Law into force the original charges were modified to other criminal acts which are not subject to amnesty. This, in effect, circumvents the implementation of the Amnesty Law and increases insecurity and anxiety among the population of the region, which expected relief from the consistent implementation of amnesty.

In that respect, we would like to recall the assessments contained in the presidential statement of 20 December 1996 (S/PRST/1996/48) and in particular the paragraph, in which it is stated, inter alia, that "the Security Council is deeply concerned at reports that the new amnesty law is not being implemented in a fair and equitable manner. It underlines that equitable application of that law is vital for building confidence and promoting reconciliation in Croatia as well as for the peaceful reintegration of the Region of Eastern Slavonia, Baranja and Western Sirmium."

We consider this assessment to be accurate and important both in terms of the general situation and the assessment of the conditions for free and fair elections.

Paragraph 10 of the Basic Agreement merits attention. It states that "the international community shall monitor and report on respect for human rights in the region on a long-term basis". In the interest of promoting security and trust, we consider that it should be more precisely defined which organizations will carry out this obligation on behalf of the international community and what forms their engagement and presence in the field will take after the expiration of the transitional period.

The question of full and lasting demilitarization of the region is of huge importance, as it represents an essential element for confidence-building among the population and the establishment of lasting stability. We are convinced that this question should be resolved exclusively from the point of view of the goals set forth in the Basic Agreement signed at Erdut and confidence-building among the population of the region. Although the Federal Republic of Yugoslavia has a lasting commitment towards good-neighbourly relations, there are no grounds to link this issue with its bilateral relations with the Republic of Croatia, and even less to involve Hungary in it, as it would overstep the framework and goals of the Basic Agreement.

Allow me, in the end, to put forward the Yugoslav position that the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium, signed at Erdut, has a lasting character, that it is not formally limited in time; that is to say, that its validity extends even after the expiration of the two-year transitional period. This stems from the contents and goals of the Agreement, which can hardly be time-limited. Paragraph 10 of the Agreement, for example, provides that "the international community shall monitor and report on respect for human rights in the region on a long-term basis" even after the expiration of the transitional period. Paragraph 11 provides for the establishment of a commission to monitor the implementation of the provisions on human and civil rights on a long-term basis. The provision on the Council of Serbian Municipalities and the provision on the equality of all residents in the region also have a permanent character, which is a precondition for the preservation and development of the region as a multi-ethnic entity.

I would appreciate it if you would inform the members of the Security Council of the contents of the present letter.

(Signed) Milan MILUTINOVIĆ